

BAR BULLETIN

Volume XIII, Issue 9

www.wsbcba.org

September 2013



REMARKS FROM THE PRESIDENT'S DESK—

By: Dean McVay

This fall will be a busy season for the Western San Bernardino County Bar Association with lots of dinners, seminars, and events lined up. First, we are pleased to announce the Award Recipients for our upcoming **October 17, 2013** “Jennifer Brooks Lawyer of the Year Award” and our “Legal Assistant of the Year Award.” The “Jennifer Brooks Lawyer of the Year Award” will be awarded to Gregory Bentley, a partner with Shernoff Bidart Echevarria Bentley LLP. This award is given each year by the Western San Bernardino County Bar Association to a local lawyer who demonstrates the finest qualities of our profession. Such qualities include what Judge Charles W. McCoy refers to as the “Five Cs”: Candor, Compassion, Civility, Courage, and Competence. As we heard from those who knew Jennifer Brooks, she demonstrated all of these essential qualities and practiced law with great integrity.

The “Legal Assistant of the Year” Award will be awarded to Roberta Shouse, posthumously. Roberta was the Executive Director of Legal Aid Society of San Bernardino since 1978. Legal Aid provides the less fortunate in the county with access to justice. Neil Shouse, a Los Angeles attorney and Roberta’s son, will accept the award on her behalf. The award is given annually to a Legal Assistant who has exhibited the utmost in professionalism, experience, and assistance, not only to his/her employer, but also to the legal community, and who goes above and beyond the call of duty.

Also, for the first time in the WSBCBA’s history, the Board will award a “Lifetime Achievement Award” to Charles Doskow, Dean Emeritus of the University of La Verne College of Law and long time local practitioner. He previously was general counsel to Thatcher Glass Manufacturing Co., Dart Industries, and Lewis Homes. He practiced law in Upland from 1979-2000, and has served as past President of the Western San Bernardino County Bar Association, the San Bernardino County Bar Association, and the Inland Empire Chapter of the Federal Bar Association.

Continued on page 5

Western San Bernardino County Bar Association
Cordially invites you to its
2013/2014 Installation of Officers & Awards Ceremony

HONORING:

Jennifer Brooks Lawyer of the Year Gregory Bentley <small>Shernoff Bidart Echevarria Bentley LLP</small>	Legal Assistant of the Year Roberta Shouse <i>(posthumously)</i> <small>Legal Aid Society of San Bernardino</small>	Lifetime Achievement Award Charles Doskow <small>University of La Verne College of Law</small>
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**Thursday Evening
October 17, 2013**

**5:30 p.m. - Social Gathering
6:00 - 8:30 p.m. - Dinner & Program**

**DoubleTree By Hilton
222 North Vineyard Avenue, Ontario, California**

2013/2014 Officers: Anthony Sears <i>President</i> David H. Ricks <i>President Elect</i> Diane Hartog <i>Vice President</i> Matthew Taylor <i>Secretary/Treasurer</i> Dean McVay <i>Imm. Past President</i>	Join us as we extend our sincerest appreciation to outgoing President Dean McVay	Directors-at-Large: Fernando Bernheim Angelique Bonanno David Goldstein Randal Hannah Gilbert Holmes Daren Lipinski Mitchell Roth
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**2013/2014
Installation of Officers & Awards Ceremony**

Sponsorships			
Platinum \$1500.00	Gold \$1000.00	Silver \$500.00	Bronze \$250.00

Sponsor Name: _____
 Address: _____
 Sponsor Telephone: _____
 Amount Sponsored: _____

Thank you for your support!

Installation Dinner Registration

\$70.00 Individual \$650.00 Table of 10 \$50.00 Law Students
 \$85.00 if reservation is received after October 10, 2013

Name: _____
(Please provide additional names and/or names of table guests below)

Firm Name: _____

Payment Method: Check Credit Card Visa MC
 Other Card No: _____
 Expiration Date: _____ Security Code: _____

Please Mark Your Meal Selection(s)

___ Flat Iron Steak ___ Oven Roasted Chicken
 ___ Eggplant Rolotini (Vegetarian)

Attendee Names and Food Choice:

Please return this RSVP no later than **October 10, 2013**, to
 Western San Bernardino County Bar Association and mail or fax to:
 WSBCBA • 8291 Urica Avenue, Suite 102, Rancho Cucamonga, California 91730
 Tel.: (909) 483-0548 • Fax: (909) 483-0553
 E-Mail: westernbarassoc@aol.com

CONGRATULATIONS



Gregory Bentley

Shernoff Bidart Echeverria
Bentley LLP

**Lawyer of the Year
2013/2014**



Roberta Shouse

(posthumously)
Legal aid Society of
San Bernardino

**Legal Assistant
of the Year
2013/2014**



Charles Doskow

University of La Verne
College of Law
**Lifetime Achievement
Award
2013/2014**

Gregory Bentley is a Partner at Shernoff Bidart Echeverria Bentley LLP specializing in the representation of consumers on a wide variety of cases, including insurance bad faith and catastrophic personal injury and wrongful death claims. He has been recognized as a Super Lawyer by the *Los Angeles Magazine* (2010- 2013) and a *Top 100 Trial Lawyer* in the State of California by The National Trial Lawyers Association (2011-2013).

He is a member of the American Board of Trial Advocates, currently serving on the Executive Committee of the San Bernardino/Riverside Chapter. His recent trial success is highlighted by a \$31.5 million jury verdict against Caltrans and a left-turning driver following an accident on State Route 138. He obtained a \$2.3 million verdict in Glendale on behalf of an injured motorcycle officer hit by a disposal truck while pulling away from the curb. He successfully represented over 90 patients who lost kidney transplant opportunities following the forced transfer of their care for cost saving purposes. The litigation efforts resulted in a mid 7 figure settlement and the transfer of all patient care back to qualified hospitals.

Mr. Bentley was named the 2012 Trial Lawyer of the Year by the Consumer Attorneys of the Inland Empire and was a finalist in 2012 for the Consumer Attorneys Association of Los Angeles Trial Lawyer of the Year Award.

He is the Past President of the Consumer Attorneys of the Inland Empire (2010 & 2011) and serves on the Executive Committee of the Board of Directors of the Consumer Attorneys of California.

The "Legal Assistant of the Year" Award will be awarded to Roberta Shouse, posthumously. Roberta was the Executive Director of Legal Aid San Bernardino since 1978; the society provides the poorest in the county with access to justice. Neil Shouse, a Los Angeles attorney and Roberta's son, will accept the award on her behalf. The award is given annually to a Legal Assistant who has exhibited the utmost in professionalism, experience, and assistance, not only to his/her employer, but also to the legal community, and who goes above and beyond the call of duty.

Roberta Shouse was a lifetime resident of San Bernardino. Roberta received her AA degree in sociology from Valley College in 1964. Roberta founded the county's legal aid clinic in 1975. For 35 years, she administered the clinic, providing free or low-cost legal services to poor families.

Roberta also served on the San Bernardino County and California Commissions on the Status of Women, chaired the county Civil Service Commission, and was involved in many charities, public services, and hosted a weekly public access TV program entitled legal issues.

Professor Charles Doskow received his BA at the University of Wisconsin, his JD at Harvard, and his LLM (Taxation) at NYU.

Mr. Doskow has taught at the University of La Verne College of Law since 1979 and was Dean and Dean of Legal studies 1980-1985. The courses he has taught includes Land Use, Property, Civil Procedure, Conflict of Laws, and Administrative Law and most recently taught Constitutional Law and Professional Responsibility, in addition to seminars on Constitutional Issues and Anti-Terrorism Law. He has further taught Constitutional Law as a college level course at La Verne College of Law and also coached moot court teams the last eight years.

He has published six law review articles (two co-written with COL colleagues), 50 to 60 OpEd articles in Los Angeles Daily Journal, as well as articles in Federal Lawyer, Riverside County Lawyer, ABA's Professional Lawyer, President Western San Bernardino County Bar Assn, San Bernardino County Bar Assn, and Inland Empire Chapter, and Federal Bar Association. He is currently a member of FBA Board.

He has received the "Defender of the Constitution" Award by the Federal Bar Association, Chapter (2011) and the "Professor of the Year" at College of Law (one of two) 2013.

He spent 15 months Sabbatical in the Kingdom of Jordan, as an ABA consultant to Jordanian law schools from March-June 2007. Mr. Doskow organized the first ever inter-law school moot court competition in the country. He was invited as a panelist at the Mississippi College of Law in Jackson, Mississippi in March 2013, on Professional Responsibility.

Mr. Doskow practiced law in Upland from 1979 to 2000.

September Almanac

By: Tony Sears

All times Pacific Daylight Time (PDT), which is minus seven (7) hours from UTC (Universal Time Coordinated).

Location: 34.1 N, 117.7 W. All astronomical data courtesy of the United States Naval Observatory website:

www.usno.navy.mil.

September Sky. The September New Moon occurs on Thursday, September 5, at 5:13 a.m. local time. However, because the new Moon occurs when the Moon passes directly in front to Sun, it is not visible to the naked eye, unless a total lunar eclipse is occurring. So, it is the sighting of the young Moon, that silvery shard glimmering in the evening twilight, on September 5 that begins the High Holy Days of *Rosh Hashana* (Lunar New Year) and *Yom Kippur* (Day of Atonement) on September 14, 2013.

Shine On Harvest Moon! Since the full Moon in September occurs closest to the Autumnal Equinox it is known as the "Harvest Moon", the September Full Moon, known as the "Full Harvest Moon" occurs on September 19, 2013, at 4:13 a.m.

This is not the actual Blue Moon, even though it is the fourth Full Moon during the Summer of 2013. June 23, July 22, and August 20 were the other three, so the Full Moon on August 20, 2013, was the Blue Moon. Look for that good old Harvest Moon to rise at 6:57 p.m. on Thursday, September 19, 2013, just shortly before the Autumnal Equinox on September 22, 2013.

You may also wish to pull out your copy of Neil Young's "Harvest Moon" or Van Morrison's "Moondance" and give them a listen. Join us on the evening of Friday, September 20, 2013, for the annual Bench-Bar BBQ at the fabulous Brandt Family Estate in San Antonio Heights. The nearly full Moon will rise at 7:34 p.m. over Cucamonga Canyon that evening. See the bulletin for further details.

Beware, the Equinox approaches! This year the Autumnal Equinox occurs on September 22, 2013, at 1:44 p.m. This means that the Earth has reached the half way point in its annual rotational tilt of 22.5 degrees North (Tropic of Cancer), on June 20 at 10:03 p.m. (the Summer Solstice) to Zero degrees (the Equator on the Autumnal and Vernal Equinoxes) on the way to 22.5 degrees South (Tropic of Capricorn) on December 21 at 11:11 a.m. for the Winter Solstice.

So to recap, consider this: We live on the side of an irregular sphere (fatter at the Equator than the Poles) at about 34 N, 117 W. That bright blue ball, covered in salt water with a thin gaseous nitrogen/oxygen atmosphere, is going in at least four (4) directions (five (5), if you count the space/time continuum...) at once:

(1) Rotating at about a thousand miles per hour (1,000 m.p.h) towards the East (24 hrs. in a day). The rotation is actually slightly faster at the Equator, which is why the best location for a space launch is as close to the Equator as possible. This makes it easier to escape the surly bonds of Earth;

(2) Tilting from 22.5 degrees north to 22.5 degrees south (four (4) seasons); and

(3) Orbiting the Sun in an elliptic (irregular oval), with the perihelion (closest approach) in early January and apihelion (farthest point) in early July.

(4) Our puny little solar system is rotating in the Sagittarius arm of the Milky Way Galaxy; and

(5) We are also plodding along through the space/time continuum, although how that all works is above my paygrade.

So as you start out your hectic day, take comfort in knowing that you really are moving in all directions at the same time.

Garden Notes: Autumn Garden Season. One of the greatest things about living in our area is that the you can garden year 'round. Fall is the perfect time to clear out the garden or containers and reload. The tomatoes are probably done, so go ahead and rip them out. Arugula, Beets, Spinach, Leeks, Lettuce, Carrots, and Bok Choi are all good candidates for the fall garden. There is enough warmth and sunshine to get the plants off to a good start. By the time the weather cools down, the plants will be in established and productive. Fresh soil, clean water (fill your water cans or buckets and let sit for 24 hours so the chlorine in the water evaporates). Keep that seed bed damp until there is good germination. Kind attention will yield a fresh salad greens for the Holiday season. A fresh green salad on Thanksgiving Day is quite possible.

Continued on page 4

Save the dates:

**Lawyer of the Year and
Legal Assistant of the Year
October 17, 2013**

**Child Alienation and Realistic
Estrangement MCLE Luncheon
October 24, 2013**

**Judicial Officer of the Year
March 27, 2014**

The Inland Empire's New Lawyer Organization: Asian Pacific American Lawyers Inland Empire ("APALIE")

The desire to form an Asian American lawyers association in the Inland Empire, i.e. Riverside and San Bernardino counties, has been the sentiment of many of the Asian American lawyers either working or living in these counties for quite some time. There are various Asian American lawyer organizations already in existence in different areas of Southern California, such as the Asian Pacific American Bar Association. However, these ideas and desires had not actually come to fruition in the Inland Empire, until now.

The initial formation of the Asian Pacific American Lawyers Inland Empire ("APALIE") began with a single email. On November 21, 2012, Eugene Kim (partner at Gresham Savage Nolan & Tilden) emailed me, Sophia Choi (Deputy County Counsel at the County of Riverside's Office of County Counsel), Sylvia Choi (Deputy District Attorney at the Riverside County District Attorney's Office), Lloyd Costales (attorney at Page Lobo Costales & Preston), Ricky Shah (attorney at The Law Offices of Ricky S Shah), and Jerry Yang (Assistant United States Attorney at the Office of the US Attorney located in Riverside). All of us were enthusiastic about this endeavor. With a wide range of practice areas and offices located in different areas of the Inland Empire, we shared a common goal: the desire and drive to form an organization of Asian Pacific American lawyers in the Inland Empire.

We had our first formation meeting on December 4, 2012. By this time, we already had additional interested members, including Justin Kim (attorney at Welebir Tierney & Weck), Julius Nam (Law Clerk in the Central District of California), and Niti Gupta (attorney at the Los Angeles Dependency Lawyers). At this meeting, we discussed the possible names of our organization, our mission and goals, events, and means for membership growth. APALIE's goals are to promote access to legal opportunities in the Inland Empire for its members, provide mentorship opportunities, support fellow members to advance in the legal profession, and to provide community service, to name a few. It was a successful meeting of the co-founders of the organization. APALIE's mission statement is: *APALIE is a professional association supporting the professional growth and advancement of the Asian Pacific American legal community in the Inland Empire. APALIE strives to ensure justice, equal access, and opportunities in the legal profession for all persons. The association fosters professional development, legal scholarship, advocacy and community involvement.*

Our subsequent meeting was held on January 17, 2013. With a slowly yet steadily growing membership, we had four additional members, Warren Chu (Deputy County Counsel at the County of Riverside's Office of County Counsel) and Angela Park, as well as Ami Sheth (Assistant US Attorney) and Young Kim (Deputy Federal Public Defender in Riverside). APALIE will hold monthly meetings to discuss formation and membership. APALIE will hold its inauguration/installation dinner on April 18, 2013. Honorable Jackson Lucky will be our keynote speaker. Specific details including location and time will be announced.

With a diverse group of Asian Pacific American attorneys who have already started working together in efforts to establish and foster this organization, we are confident that APALIE's membership will continue to grow and positively impact the Inland Empire legal community and the community in general. I know some may think this organization is being formed exclusively for Asian Americans; however, I would encourage all who identify with our mission statement to attend one of our meetings and become involved in this exciting new endeavor. For more information regarding our organization or if you would like to join as a member, please email me at sochoi@co.riverside.ca.us

September Almanac (Continued from page 3)

September Recipe:

Green Goddess Dressing. Here is my take on a classic. See if your mom still has that Avocado Green, Burnt Orange, or Lemon Yellow ship and dip set....Makes a fantastic dip and/or salad dressing, especially with a chilled seafood salad. Makes about two (2) cups. Combine and whisk in a mixing bowl the following:

- 1 Tbsp. Tarragon Vinegar
- 1 Tbsp. Lemon juice
- ½ cup sour cream
- 1 cup of Mayonnaise
- 4 anchovy fillets, finely minced (Please don't freak out, the anchovy will vanish into to mix and provides savory goodness)
- 1 clove of garlic, finely minced
- 1/4 cup finely chopped parsley
- 1/4 cup finely chopped scallions

Thoroughly blend and chill before serving. If you cannot find Tarragon vinegar, make your own. Heat a cup of white cider vinegar with a Tbsp. of dried Tarragon. Before it boils, shut down the heat and strain into a clean glass jar.

Buon Appetito! Tony Sears

**NOTICE OF SPECIAL MEETING OF THE MEMBERS OF THE
SAN BERNARDINO COUNTY BAR ASSOCIATION**

Please take notice that a Special Meeting of the Members of the San Bernardino County Bar Association (the "Association") has been called by the President of the Association. The Special Meeting shall take place at the following date, time, and location:

Date: September 20, 2013

Time: 5:30 p.m.

Location: The home of member Brian Brandt in Upland, California.

Please call the Bar Association office for the address and directions.

Please note that this Special Meeting shall be held concurrently with the annual Bench-Bar BBQ event to be held at the same date, time, and location.

Please take notice that this Special Meeting has been called for the following purpose:

(1) A vote of the Members of the Association will be held pursuant to section 11.4 of the Bylaws of the Association for the purpose of approving amendments to the By-laws proposed by the Board of Directors of the Association. The proposed amendments to the By-laws are attached to this notice.

Dated: August 20, 2013

By: Matthew L. Taylor
Secretary of the Association

Please see Proposed Amendments to the By-Laws of the WSBCBA (Inserted herewith)

President's Remarks - Continued from page 1

The Dinner will take place on **October 17, 2013**, starting at 5:00 p.m., at the Doubletree Hotel in Ontario. Please come help us congratulate these deserving award winners and their family and friends.

We will be offering two MCLE events as well as our annual Bench/Bar Barbeque this month. On **September 4**, we are happy to co-present an MCLE luncheon co-sponsored by the Inland Empire Legal Association of Women (IE LAW) and our Western San Bernardino County Bar Association. San Bernardino Presiding Judge Marsha Slough will update us on the status of the San Bernardino Superior Courts at the Panda Inn, Ontario, from 12 noon to 1:30. The cost will be \$25 for members and \$40 for non-members. Please call soon to reserve your spot, as seating is limited.

On **September 20**, we will return to the beautiful north Upland home of Brian and Camille Brandt for our annual "Bench Bar Barbecue." Please join us as we mingle with Judges, colleagues and friends at this annual event. Tony Sears and Brian Brandt will be manning the barbeque, serving up some delicious food and appetizers. There will also be an open bar featuring Brian Brandt's family wines, as well as beer, soda, water and mixed drinks. We will raffle off some wonderful prizes and are currently soliciting raffle items from local businesses. Please ask your favorite restaurant, local store or shop to donate an item or a gift certificate for us to give away at the raffle.

This event is one of the favorites throughout the year, so be sure not to miss it! RSVP to Deva Mora at 909.483.0548, as soon as possible!

On the following Thursday, **September 26**, we will co-host "Civility Matters" with the San Bernardino/Riverside Chapter of the American Board of Trial Advocates, ABOTA, beginning at 5:15 p.m. at the University of La Verne College of Law in Ontario. Speakers will include Bill Shapiro, John Lowenthal, Greg Rizio, and the Honorable Bryan Foster. Attendees will receive one unit of Ethics MCLE credit, and there is no cost to attend. Please RSVP as space will fill up quickly.

On **October 24**, we will present an MCLE entitled "Child Alienation and Realistic Estrangement" from 12 noon to 1:30, At the Old Spaghetti Factory in Rancho Cucamonga, with Dr. Les Herold, founder of "Solutions for Families."

Please also save the date of **March 27, 2014**, beginning at 5:00 p.m., for our "2014 Judicial Officer of the Year Award." This dinner will also take place at the Doubletree Hotel in Ontario, and will feature a very special guest - you won't want to miss it.

If you have not yet joined and would like to join our WSBCBA Lawyer Referral Service, please fill out an LRS application.

Have a great fall and we look forward to seeing you soon at our upcoming events!

Dean

Injured Can Sue Even After Settling

By Fernando D. Vargas

In [*Barnes v. Western Heritage Insurance Co.*], 217 Cal. App. 4th 249 (2013), the 3rd District Court of Appeal held that the collateral estoppel rule does not prevent a plaintiff from pursuing coverage for medical expenses under the tortfeasor's commercial general liability insurance policy even though the tortfeasor's liability insurer has settled because "An insurer's obligation to indemnify its insured under the liability provision of an insurance policy is separate and distinct from its obligation to pay for medical expenses under a medical payment provision of the same policy."

In [*Barnes*], the plaintiff, Barnes, an 11-year-old boy, was injured in 2001 by a table that fell on his back while participating in an activity sponsored by the Shingletown Activities Council. Barnes made a claim against the council for injuries and damages caused by the accident. Western Heritage Insurance Company was the insurance carrier for the council.

Pursuant to a medical payment provision of the insurance policy, Western Heritage paid \$1,478 to Barnes' medical care providers for medical services he received during the first couple of months after the accident. At that time, there was no evidence Barnes submitted any other bills to Western Heritage for payment.

In 2002, Barnes filed a personal injury lawsuit against the council and others alleging negligence and premises liability. In his lawsuit, Barnes sought to recover general damages and compensation for medical expenses.

About 18 months after the accident, Barnes requested coverage under the medical payment provision of the insurance policy for a consultation with a pediatric neurologist and orthopedic specialist. Western Heritage refused to pay for a second opinion and denied Barnes' request for additional medical payment benefits because the insurance policy required expenses to be incurred and reported to Western Heritage within one year of the date of the accident and there was no indication that additional medical expenses were reasonable and necessary. This was the first time Barnes was notified regarding the 1-year deadline in the insurance policy.

Barnes eventually settled his personal injury lawsuit against the council. During settlement negotiations, he was offered additional money if he would include Western Heritage in a release of claims; however, the case settled without including Western Heritage in the release.

In 2009, when Barnes was 19, he filed a lawsuit against Western Heritage for breach of contract and breach of implied covenant of good faith and fair dealing. In this lawsuit, Barnes alleged he was a third-party beneficiary of the medical payment provision of the insurance policy, that Western Heritage breached the policy by failing to pay for all of his medical expenses, and, as a result, he was unable to seek further medical services and was forced to settle his personal injury lawsuit for a lesser amount. Barnes further alleged that Western Heritage breached the covenant of good faith and fair dealing implied in the insurance policy by denying him medical payment benefits without reasonable cause.

The trial court granted Western Heritage's motion for summary judgment concluding that Barnes' lawsuit was barred by collateral estoppel. The trial court held that because the settlement in the personal injury lawsuit resolved the issue of payments due for Barnes' medical expenses under the insurance policy, he could not seek to recover more than once for the same injury. The trial court also held that his request for additional coverage was barred by the 1-year deadline in the insurance policy. The appellate court reversed.

The appellate court concluded that collateral estoppel did not bar the present action because the issues asserted in the second lawsuit were neither litigated nor determined in the prior personal injury lawsuit. In addition, the appellate court held that recovery in this action would not amount to an impermissible double recovery because "an insurer's obligation to indemnify its insured under the liability provision of an insurance policy is separate and distinct from its obligation to pay for medical expenses under a medical payment provision of the same policy." Relying on [*Harper v. Wausau Ins. Co.*], 56 Cal. App. 4th 1079 (1997), the court held that the "the medical provision of an insurance policy is divisible from the remainder of the insurance policy and creates a direct liability on the part of the insurer to an injured person" and that "the obligation of the insurer under a medical payment provision is not dependent on the negligence of the insured or the insurer's obligation to pay damages under the liability provisions of the policy."

Barnes' settlement in the personal injury lawsuit was for compensation for the alleged negligence by the defendants in that case. Although the council was a defendant in that case, its insurer, Western Heritage, was not. The appellate court held that by satisfying the settlement in the personal injury action, Western Heritage

[Continued on page 7]

Please donate a raffle prize to our Bench Bar BBQ! Please ask your favorite restaurant, nail salon, movie theater, etc., to donate a prize to our raffle drawings to help make the evening a great success!

Contact Deva Mora @ (909) 483-0548 or e-mail: westernbarassoc@aol.com

Injured Can Sue Even After Settling

[Continued from page 6]

performed its obligation to the council under the liability provision of the policy, but that this obligation was separate and divisible from the duty Western Heritage owed under the medical payment provision of the insurance policy.

The precedent set forth in *[Barnes]* is of significance for plaintiffs in particular because all too often a plaintiff settles his or her liability claim for an agreed upon sum in a case where the medical payment benefits were either paid well before settlement or shortly thereafter. The settlement release is signed and returned to the insurance adjuster who then mails a settlement draft to the plaintiff's attorney that is typically offset by the amount of the medical payment benefits paid. When the shortage is brought to the attention of the carrier, the claims representative usually refuses to pay the agreed upon settlement, claiming that the medical payment benefits constitute part of the gross settlement amount.

The holding in *[Barnes]* unequivocally establishes that insurance companies will no longer be able to engage in such tactics, as *[Barnes]* clearly holds that (1) the provisions for medical payment benefits are separate and distinct from the provisions for liability in an insurance policy, and (2) collateral estoppel does not prevent a plaintiff from pursuing benefits for medical payments even though the liability portion of the claim has been resolved. This holding is pivotal and should be cited every time an insurance company seeks to inappropriately offset the settlement amount by the medical payments benefits previously paid.

This article was previously published in the July 20, 2013 edition of the Daily Journal. - Fernando Vargas.

“Breakfast With Your Supervisor” August 23, 2013



Deva Mora, WSBCBA-Executive Director, Janice Rutherford, Supervisor - 2nd District, and Dean McVay, WSBCBA President.



Dean McVay, WSBCBA-President, Deva Mora, WSBCBA, Executive Director, and Gary G. Miller, Congressman

WELCOME

Western San Bernardino County Bar Association's New Members:

Jeffrey Decker, Esq., Jeff Decker Law
Jason Crouch, Paralegal - Cihogoyenette, Grossberg & Clouse



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE *from the* CLERK

Changes to the Local Rules Proposed to Become Effective December 1, 2013

The Court has preliminarily approved the amended Local Civil Rules, Local Criminal Rules, and Local Rules Governing Bankruptcy Appeals, Cases, and Proceedings that accompany this notice. The proposed effective date for these amended rules is December 1, 2013. The amended rules are posted on the Court's website, and include the following:

Local Civil Rules:

- 3-2 [Filing of Initiating Documents]
- 5-4.3.3 [Hyperlinks]
- 5.2-1 [Redaction]
- 6-1 [Notice and Service of Motion]
- 11-3 [Documents Presented to the Court – Form and Format]
- 32-1 [Use (of Depositions) at Trial or on a Motion]

Local Criminal Rules:

- 49.1-1 [Redaction]

Local Rules Governing Bankruptcy Appeals, Cases, and Proceedings:

- 4.1 (8009-4.1) [Time for Filing, Form and Number of Briefs]



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE *from the* CLERK

Members of the public are invited to submit comments on these amended rules. Comments may be submitted to <lr_publiccomments@cacd.uscourts.gov> or in hard copy to Terry Nafisi, District Court Executive and Clerk of Court, 312 N. Spring Street, Room G-11, Los Angeles, California 90012. No facsimile transmissions will be considered.

All comments must be submitted no later than September 16, 2013. All timely received comments will be considered by the Court before final adoption of the rules.

Terry Nafisi
District Court Executive
August 15, 2013

**Western San Bernardino County Bar Association and
Inland Empire Legal Association of Women PRESENT an
MCLE LUNCHEON on**

**“UPDATE ON THE CURRENT STATUS OF THE
COURTS SYSTEM, FUNDING AND FUTURE
PROJECTIONS”**

**SPEAKER:
HONORABLE MARSHA G. SLOUGH**
Presiding Judge of San Bernardino County



**—▶ 1 hour MCLE credit ◀—
Wednesday — September 4, 2013
12:00 noon to 1:30 p.m.**

**at
Panda Inn
3223 Centre Lake Drive, Ontario, CA 91761
(909) 390-2880**

**COST: \$25.00/Member — \$40.00/Non-Member
***** RSVP REQUIRED! *******

Call:(909) 483-0548 Fax: (909) 483-0553 E-mail: westernbarassoc@aol.com

Buffet Including:

- Chinese Chicken Salad
- Vegetable Spring Rolls
- Sweet & Sour Pork
- Beef & Broccoli
- Orange Flavored Chicken
- Chicken & Shrimp With Asparagus
- Braised String Beans
- Steamed Rice, Fried Rice or Brown Rice

NAME: _____

PHONE NO: _____

NOTE: A \$25.00/\$40.00 fee will be charged for failure to show or cancel reservation within 24 hours. The WSBBCBA certifies that this activity has been approved for 1 hour MCLE credit by the California State Bar.

**WESTERN SAN BERNARDINO COUNTY BAR ASSOCIATION
PO Box 624 ♦ Rancho Cucamonga, CA 91729 ♦ (909) 483-0548—Fax: (909) 483-0553
E-mail: westernbarassoc@aol.com**

Western San Bernardino County Bar Association's

“Bench-Bar” Barbecue



Friday, September 20, 2013
6:00 p.m. - 9:00 p.m.

Please join us as we mingle with Judges, Colleagues
and Friends along the vineyards at the home of
Brian & Camille Brandt
San Antonio Heights - Upland, CA

[For Address and Directions, Please contact the WSBCBA at the contact information below]

Sponsored by:
Brandt Family Winery

Cost: \$25.00/person

Serving Delicious Food
Raffle Prizes
Open Bar - Casual Attire

Please RSVP & Send Payment to WSBCBA

For directions or further information
contact the WSBCBA @ (909) 483-0548 or
e-mail: westernbarassoc@aol.com

Western San Bernardino County Bar Association
PO Box 624♦Rancho Cucamonga, CA 91729

NOTE: A \$25.00 fee will be charged for failure to show or cancel reservation within 24 hours



**Western San Bernardino
County Bar Association
and The San Bernardino/
Riverside Chapter of The
American Board of Trial
Advocates (ABOTA)
Present an MCLE on**



1.0 Ethics MCLE Credit

Civility Matters

SPEAKERS:

Bill Shapiro, partner with Robinson Calcagnie Robinson Shapiro and Davis;
John Lowenthal, managing partner of the San Bernardino office of
 Lewis Brisbois Bisgaard & Smith;
Greg Rizio, partner of Rizio and Nelson; and
Honorable Bryan Foster, of the San Bernardino County Superior Court

—► **1 hour MCLE credit** ◀—
Thursday - September 26, 2013
5:15 p.m. to 6:30 p.m.

at
 University of La Verne College of Law
 320 East "D" Street
 Ontario, California
COST: Free

******* RSVP REQUIRED! *******

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The WSBCBA certifies that this activity has been approved for
 1.0 hour of Ethics MCLE

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Free MCLE - 1.0 Ethics Credit
Seats Limited - Must RSVP

**Western San Bernardino County Bar Association
PRESENTS an MCLE LUNCHEON on**

“Child Alienation and Realistic Estrangement”



SPEAKER: Dr. Les Herold
founder of Solutions For Families

—▶ **1 hour MCLE credit** ◀—
Thursday - October 24, 2013
12:00 Noon to 1:30 p.m.

at
Old Spaghetti Factory
11896 Foothill Blvd., Rancho Cucamonga, CA
(909) 980-3585

COST: \$25.00/Member — \$40.00/Non-Member
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- Spaghetti with Mizithra Cheese & Brown Butter
- Spinach & Cheese Ravioli with Marinara Sauce
- Fettuccine Alfredo

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NOTE: A \$25.00/\$40.00 fee will be charged for failure to show or cancel reservation within 24 hours. The WSBCCA certifies that this activity has been approved for 1 hour MCLE by the State Bar of California.

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Spending one coin for assistance to save the other

It seemed like a good idea at the time. I wanted free information to reduce my taxes so I went to the government agency equipped with the expertise to answer my innocent questions.

Thirty-five years later I still remember his bemused expression as the IRS man came from behind his desk to escort me to the door.

"So you don't have any information to help me?" I asked plaintively.

"Look in the library," he said, holding the door for my ignominious exit.

I learned: IRS representatives are not paid to inform citizens how to minimize their taxes.

Similarly, government eligibility workers are not paid to inform citizens how to maximize assets while qualifying for benefits available through federal, state and county agencies.

Anyone can obtain forms for government assistance programs and file for benefits at no charge. However, anyone with two nickels to rub together should spend one coin for professional guidance to save the other.

Use assessed not fair market value

Planning tip: Mom and Dad turned their first house into rental property. Currently assessed for \$36,000, this house's fair market value is \$270k.

Dad requires care costing \$6,000 per month. Their residence is exempt for eligibility but the rental property value must be counted as a non-exempt resource.

Must Mom sell their rental property to qualify for Medi-Cal long-term care assistance for Dad?

No: Mom uses the assessed value of \$36,000 and includes it in her 2013 spousal allowance of \$115,920.



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